

PATENT

Appellants: Michael P. Schoemann et al.
Serial No.: 10/709,382
Filed: April 30, 2004
Art Unit: 3612
Examiner: Kiran B. Patel
Title: DOOR TRIM PANEL WITH DUAL DENSITY BOLSTER ARMREST
AND INTEGRATED COMPONENTS
Confirmation No.: 3381
Atty. Docket No.: MASL-37

Cincinnati, OH 45202

August 31, 2006

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TRANSMITTAL OF SECOND APPEAL BRIEF (37 CFR § 41.37)

1. Transmitted herewith is a SECOND APPEAL BRIEF in this application with respect to the Notice of Appeal filed on June 23, 2006.

2. STATUS OF APPLICANT

[X] other than a small entity
[] small entity

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 CFR 41.20(b)(2) the fee for filing the Appeal Brief is:

[] small entity	\$250.00
[X] other than small entity	\$500.00

Appeal Brief fee due \$0.00
(See Remarks)

4. EXTENSION OF TIME

Applicant petitions for an extension of time under 37 CFR 1.136 for the total number of months checked below:

	Fee for Extension of:	other than <u>small entity</u>	Fee for <u>small entity</u>
<u>X</u>	one month	\$ 120.00	\$ 60.00
<u> </u>	two months	\$ 450.00	\$225.00
<u> </u>	three months	\$ 1,020.00	\$510.00
<u> </u>	four months	\$1,590.00	\$795.00

Fee: \$ 120.00

If an extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

- [] An extension for _____ months has already been secured and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

or

- (b) [] Applicants believe that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal Brief fee:	<u>\$ 0.00</u>
Extension fee (if any):	<u>\$120.00</u>
Total Fee Due:	<u>\$120.00</u>

6. FEE PAYMENT

- [] Attached is a check in the sum of \$ _____
- [] Charge Account No. 23-3000 the sum of \$ _____,
a duplicate of this transmittal is attached.
- [X] Charge Credit Card.

7. **FEE DEFICIENCY**

☐ [X] If any additional extension and/or fee is required, this is a request therefor and to charge Account No. 23-3000.

and/or

☒ [X] If any additional fee for claims is required, charge Account No. 23-3000.

REMARKS

Applicants respectfully submit this Second Appeal Brief. Applicants believe there is no fee due as a result of this Second Appeal Brief other than a one-month extension fee. The Examiner issued a final Office Action on October 13, 2005. Applicants filed a timely Notice of Appeal on January 9, 2006 and subsequently filed a timely Appeal Brief on March 8, 2006, including the required fee under 37 C.F.R. § 41.37. However, the Examiner reopened prosecution and issued a non-final Office Action on March 27, 2006. Applicants have appealed from this non-final Office Action, by filing a Second Notice of Appeal on June 23, 2006. Because the Board did not render a decision in the first appeal, the fee paid on March 8, 2006 may be applied to the Second Appeal Brief. *Rules of Practice Before the Board of Patent Appeals and Interferences*, 69 Fed. Reg. 49959, 49975 (August 12, 2004) (final rule). Therefore, the fee for this second appeal brief has been paid. Nevertheless, if a petition is due or any fees

are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

/Steven W. Benintendi/

Steven W. Benintendi

Reg. No. 56,297

2700 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202
(513) 241-2324
(513) 241-6234 (fax)